

Message Text

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PAGE 01 STATE 046773

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ORIGIN PM-02

INFO OCT-01 L-01 EUR-01 ISO-00 /005 R

DRAFTED BY PM/ISO:CAPT DEWENTER

APPROVED BY PM/ISO:CAPT DEWENTER

L/OA - MR. LEITZELL

EUR/RPM - COL. THOMPSON

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R 092335Z MAY 74

FM SECSTATE WASHDC

TO USDOCOSOUTH

C O N F I D E N T I A L STATE 046773

FOR POLAD

E.O. 11652:

SUBJECT:

FOLLOWING IS A REPEAT

QUOTE

P081414Z MAR 74

FM SECSTATE WASHDC

TO AMEMBASSY ATHENS PRIORITY

AMEMBASSY ANKARA

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E.O. 11652 :GDS

TAGS: PBOR, LOS, TU, GR

SUBJ: GREEK-TURKISH DISPUTE OVER CONTINENTAL SHELF,

GREEK DECISION TO DECLARE L2 MILE TERRITORIAL

SEA, AND GREEK STATEMENTS ON STRAITS

REF: A. ATHENS 1306; B. JCS 2714442 FEB. 74;

C. STATE A-1666;

1. DEPT. APPRECIATES BEING KEPT FULLY INFORMED BY

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PAGE 02 STATE 046773

EMBASSIES ON CURRENT GOG-GOT CONTINENTAL SHELF BOUNDARY DISPUTE AND OTHER LAW OF THE SEA ISSUES. THIS CABLE ADDRESSES THREE ISSUES DEALT WITH IN REFS A, B AND OTHER CABLES: STRAITS, TERRITORIAL SEA, AND CONTINENTAL SHELF BOUNDARY DISPUTES.

2. FIRST, WITH RESPECT TO GREEK STATEMENTS CONCERNING STRAITS IN CONTEXT OF LOS CONFERENCE, EMBASSY SHOULD HAVE RECEIVED REF C WHICH CONTAINS OUTLINES OF OUR LOS POSITION ON TERRITORIAL SEA AND STRAITS. IN VIEW OF PAST INTRANSIGENCE ON THE SUBJECT, DEPT IS INTERESTED IN RECENT STATEMENTS BY GOG OFFICIALS, AS PER REF A, THAT GOG IS PLANNING TO SUPPORT OUR POSITION ON FREE TRANSIT THROUGH INTERNATIONAL STRAITS IN THE LOS NEGOTIATIONS. DEPT. WOULD BE INTERESTED IN EMBASSY ASSESSMENT OF WHETHER THIS RESULTS FROM HIGH LEVEL LOS POLICY CHANGE INDEPENDENT OF CURRENT DISPUTE WITH GOT, OR WHETHER GOG MAY EXPECT SOME ACTION FROM US CONCERNING THE DISPUTE. IN PARTICULAR IS SUPPORT FOR FREE TRANSIT PREMISED ON US ATTEMPT TO KEEP BOUNDARY DISPUTES OUT OF THE LOS CONFERENCE OR IS IT AN INDEPENDENT SHIFT ON THE STRAITS ISSUE. FYI: AT GENEVA US DEL PRIVATELY SUGGESTED TO GOG WE MIGHT BE ABLE TO USE OUR INFLUENCE TO KEEP BOUNDARY ISSUES OUT OF CONFERENCE IN RETURN FOR SUPPORT ON STRAITS. END FYI. DEPT. WOULD ALSO BE INTERESTED IN ANY INFORMATION EMBASSY MAY HAVE CONCERNING WHETHER GOG SUPPORT FOR FREE TRANSIT IN STRAITS WOULD BE QUALIFIED BY INTENTION TO ALLOW FREE TRANSIT ONLY IN WATERS BEYOND SIX MILES FROM THE COASTS. THIS WOULD BE COMPLETELY UNACCEPTABLE (E.G., GIBRALTER IS LESS THAN 12 MILES WIDE.) WHILE WE WOULD APPRECIATE EMBASSY ASSESSMENT ON THESE QUESTIONS, WE WOULD PREFER THAT THEY NOT RPT NOT BE DISCUSSED WITH GOG AT THIS TIME.

3. GOG ANNOUNCEMENT THAT THEY INTEND TO EXTEND TERRITORIAL SEA TO 12 MILES OBVIOUSLY REPRESENTS ATTEMPT TO OBTAIN JURISDICTION OVER MUCH OF THE DISPUTED CONTINENTAL SHELF AREA WITHOUT HAVING TO NEGOTIATE BOUNDARY AGREEMENT WITH GOT. BECAUSE OF GEOGRAPHY OF AREA, EXTENSION OF JURISDICTION TO 12 MILES IS LIKELY TO ACCOMPLISH THIS OBJECTIVE. HOWEVER, AS EMBASSY KNOWS, US TAKES THE POSITION THAT STATES MAY NOT CLAIM TERRITORIAL SEA WIDER THAN THREE MILES UNDER INTERNATIONAL LAW, AND WE DO NOT RECOGNIZE

CONFIDENTIAL

PAGE 03 STATE 046773

BROADER CLAIMS. THIS INCLUDES EXTENSIONS TO 12 MILES EVEN THOUGH QUALIFIED BY LANGUAGE PERMITTING FREE TRANSIT BEYOND A SIX MILE LIMIT. UNILATERAL EXTENSIONS OF JURISDICTION OF THIS TYPE, REGARDLESS OF HOW PRESENTLY QUALIFIED, COULD HAVE SERIOUS POTENTIAL EFFECTS ON THE HIGH SEAS RIGHTS OF OTHER COUNTRIES UNDER INTERNATIONAL LAW. WHILE AGREEMENT ON 12 MILES TERRITORIAL SEA IN THE

LOS NEGOTIATIONS MAY BE POSSIBLE IN CONTEXT OF SATISFACTORY RESOLUTION OF STRAITS AND RESOURCE JURISDICTION ISSUES, WE DO NOT SUPPORT UNILATERAL DECLARATIONS OF THIS SORT, AND OUR POLICY IS TO PROTEST ALL TERRITORIAL SEA CLAIMS BEYOND 3 MILES.

4. US POLICY WITH RESPECT TO CONTINENTAL SHELF BOUNDARY DISPUTES AMONG FOREIGN STATES IS NORMALLY NOT TO TAKE POSITION OR BECOME INVOLVED EVEN WHERE US COMPANIES HAVE CONCESSIONS FROM ONE STATE OR ANOTHER. AS CODIFIED IN ARTICLE 6 OF 1958 CONVENTION ON THE CONTINENTAL SHELF, PRIMARY RULE OF INTERNATIONAL LAW IS THAT CONTINENTAL SHELF DIVISION BETWEEN NEIGHBORING STATES SHOULD BE DETERMINED BY AGREEMENT BETWEEN THEM. IN THIS CASE, SOME US OIL COMPANIES ARE INVOLVED. HOWEVER, SITUATION IS NO DIFFERENT THAN IF SUCH INVOLVEMENT IS RELATED TO DISPUTE OVER LAND TERRITORY. MOREOVER, US COMPANIES APPARENTLY HAVE CONTRACTS WITH BOTH GREECE AND TURKEY, AND WE WOULD NOT WISH TO PREJUDICE NEGOTIATIONS ON LOS. ACCORDINGLY, IT IS UNLIKELY THAT WE WOULD WANT TO BECOME INVOLVED IN THIS DISPUTE.

5. FYI. NEVERTHELESS, SOME GENERAL BACKGROUND ON METHODS OF SETTLING BOUNDARY DISPUTES AND ON US POSITIONS FOLLOWS. METHODS BY WHICH BOUNDARIES CAN BE DELIMITED BY AGREEMENT ARE NUMEROUS. SOME EXAMPLES USED FOR ADJACENT STATES HAVE BEEN: (1) EQUIDISTANCE; (2) LINE DRAWN PERPENDICULAR TO THE GENERAL DIRECTION OF THE COAST; (3) LINE PERPENDICULAR TO THE COAST AT THE POINT WHERE THE LAND BOUNDARY INTERCEPTS IT; (4) EXTENSIONS OF A LAND BOUNDARY ONTO THE HIGH SEAS; (5) THE LINE OF THE GEOGRAPHICAL PARALLEL OR MERIDIAN AT THE POINT WHERE THE LAND BOUNDARY MEETS THE SEA. ANOTHER METHOD USES THE GEOGRAPHICAL CONFIGURATION OF THE SHELF, SUCH AS WHERE THERE ARE DEEP

CONFIDENTIAL

PAGE 04 STATE 046773

TRENCHES DIVIDING SHELF AREA. (ACCORDING TO ATHENS 1273 THIS MAY BE A FACTOR IN GEOGRAPHY OF DISPUTED AREA.)

6. THE EQUIDISTANCE PRINCIPLE (MEDIAN OR LATERAL LINE) HAS HAD SOMEWHAT MORE BACKING THAN ANY OF THE OTHER RULES. IT WAS INCORPORATED IN ARTICLE 6 OF THE CONTINENTAL SHELF CONVENTION AS THE METHOD TO BE USED FOR BOTH OPPOSITE AND ADJACENT BOUNDARIES IN THE ABSENCE OF AGREEMENT BETWEEN THE COASTAL STATES AND UNLESS ANOTHER BOUNDARY LINE IS JUSTIFIED BY SPECIAL CIRCUMSTANCES. HOWEVER, IN 1969, THE ICJ (IN THE NORTH SEA CONTINENTAL SHELF CASES) REJECTED EQUIDISTANCE AS AN OBLIGATORY RULE OF LAW FOR DELINEATION OF BOUNDARIES BETWEEN ADJACENT STATES THAT ARE NOT PARTIES CONTINENTAL SHELF CONVENTION. (GREECE

IS A PARTY; TURKEY IS NOT). AT THE SAME TIME THE COURT, IN DICTUM, IMPLICITLY APPROVED USE OF THE EQUIDISTANCE PRINCIPLE FOR OPPOSITE STATES.

7. THE US SUPPORTS NEGOTIATED BOUNDARY AGREEMENTS IN WHICH THE BOUNDARY IS DELINEATED ON AN EQUITABLE BASIS.

WE RECOGNIZE THAT IN MANY CASES THE EQUIDISTANCE LINE WILL PROVIDE THE MOST OBJECTIVE, SATISFACTORY DIVISION. HOWEVER, IN OTHER CASES, DUE TO THE CONFIGURATION OF THE COAST OR OTHER SPECIAL FACTORS, AN EQUIDISTANT LINE MIGHT PROVE INEQUITABLE, AND ANOTHER FORMULA SHOULD BE USED.

8. THE "SPECIAL CIRCUMSTANCES" TO WHICH GOT MAKES REFERENCE ARE UNDOUBTEDLY THE ISLAND NATURE OF GREEK TERRITORY AND THE PROXIMITY OF THESE ISLANDS TO TURKISH MAINLAND. THE QUESTION OF WHETHER SUCH ISLANDS SHOULD HAVE, ON BASIS OF EQUIDISTANCE, FULL EFFECT AS BASEPOINTS EQUAL TO THE MAINLAND BASEPOINT FOR THE CONSTRUCTION OF CONTINENTAL SHELF BOUNDARY IS ONE ON WHICH US HAS NOT TAKEN PUBLIC POSITION. THIS QUESTION IS INVOLVED IN DISPUTE BETWEEN US AND CANADA CONCERNING THE CONTINENTAL SHELF BOUNDARY IN THE GULF OF MAINE. MOREOVER, RELATED ISSUES ARE LIKELY TO ARISE IN LOS NEGOTIATIONS, WHERE STATES SUCH AS GREECE ARE CONTENDING THAT ISLANDS SUCH AS THEIRS SHOULD HAVE FULL JURISDICTIONAL RIGHTS (TERRITORIAL SEA, CONFIDENTIAL

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PAGE 05 STATE 046773

CONTINENTAL SHELF RESOURCE JURISDICTION, ETC.). BECAUSE ISSUES ARE SENSITIVE WE DO NOT WISH TO TAKE PUBLIC POSITION PRIOR TO CONFERENCE. ISSUES OF DELIMITATION AND THE EFFECT OF ISLANDS ARE CURRENTLY UNDER STUDY, AND WE ARE POUCHING TO EMBASSIES COPIES OF ONE STUDY, "ISLANDS: NORMAL AND SPECIAL CIRCUMSTANCES," DONE BY THE GEOGRAPHER. END FYI. KISSINGER END QUOTE RUSH

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*** Current Handling Restrictions *** n/a

*** Current Classification *** CONFIDENTIAL

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: BOUNDARY CLAIMS, CONTINENTAL SHELF, LAW OF THE SEA, TWELVE MILE LIMIT
Control Number: n/a
Copy: SINGLE
Draft Date: 09 MAR 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE046773
Document Source: CORE
Document Unique ID: 00
Drafter: CAPT DEWENTER
Enclosure: n/a
Executive Order: GS
Errors: n/a
Film Number: D740084-0939
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740379/aaaagzyk.tel
Line Count: 213
Locator: TEXT ON MICROFILM, TEXT ON-LINE
Office: ORIGIN PM
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 74 ATHENS 1306
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 14 MAY 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <14 MAY 2002 by elyme>; APPROVED <27 JAN 2003 by GolinoFR>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> jms 971024
Subject: GREEK-TURKISH DISPUTE OVER CONTINENTAL SHELF, GREEK DECISION TO DECLARE 12 MILE TERRITORIAL SEA, AND
TAGS: PBOR, GR, TU
To: ANKARA
ATHENS
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005